

REMARKS

Rejection Under 35 USC 102(b)

Claims 1, 2 and 16 have been rejected under 35 USC 102(b) as being anticipated by US Patent No. 5,263,970 ("Preller"). Applicant respectfully points out that independent Claims 1 and 16 recite a two-component device. Referring to exemplary Claim 1, the two-component device comprises a first and a second component, recited in elements a) and b), respectively. These components are separate and distinct from one another. Each component is applied individually to either side of the wound or incision to be closed. Preller teaches a single, unitary device and, therefore, does not anticipate Claims 1, 2 and 16.

Rejection Under 35 USC 103(a)

Claims 1-34 have been rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,329,564 ("Lebner") in view of Preller. The Patent Office points out on page 4 of the Office Action the features of the presently claimed invention disclosed in the cited Lebner patent. The Patent Office states further that:

Lebner fails to explicitly teach that the first and second components are transparent. However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

Strictly speaking, this description of the Preller teaching is inaccurate as Preller does not teach "a first and second components", but rather teaches a unitary device. That distinction notwithstanding, Applicant notes that the motivation specifically provided by Preller for the use of at least semitransparent material ("for rendering the wound visible through the dressing") is a requirement for the Preller device in that during the application process the wound is not otherwise visible through the unitary device which completely blocks the wound from view. This requirement, and the underlying motivation, is inapplicable to Applicant's invention as the wound is visible between Applicant's two components - before, during and after the closing process.

Thus, one of skill in the art faced with the problem of improving the Lebner '564 device would not look to, or be motivated by, the teaching of Preller. With respect to the ability to view the wound during the closure process, Preller represents non-analogous art. Applicant notes that this rejection has been addressed at the independent claim level and, therefore, the argument applies with equal weight to specifically stated grounds of rejection directed toward Applicant's dependent claims.

Double Patenting Rejection

Claims 1-34 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 1,3-19 and 21-36, respectively, of copending Application No. 10/626,783 ("the '783 application"). The Patent Office specifically states that:

It is clear that substantially all of the limitations of Claims 1-34 of the present invention are to be found in Claims 1, 3-19 and 21-36 of the '783 application. The only limitations not disclosed in Claims 1, 3-19 and 21-36 of the '783 application are "the first component being transparent" and "the second component being transparent"... However, Preller teaches a wound closure device having at least semi-transparent first and second components in order to allow visualization of the wound during the closing process.

As pointed out above in connection with the rejection under 35 USC 103(a), the motivation specifically provided by Preller for the use of at least semitransparent material (i.e., "for rendering the wound visible through the dressing") is inapplicable to Applicant's invention as the wound is visible between Applicant's two components before, during and after the closing process. Thus, one of skill in the art faced with the problem of improving the Lebner '564 device would not look to, or be motivated by, the teaching of Preller. With respect to the ability to view the wound during the closure process, Preller represents non-analogous art. Applicant notes that this rejection has been addressed at the independent claim level and, therefore, the argument applies with equal weight to specifically stated grounds of rejection directed toward Applicant's dependent claims.

Summary

In light of the above amendment, consideration of the subject patent application is respectfully requested. Any deficiency or overpayment should be charged or credited to Deposit Account No. 500282.

Respectfully submitted,



Kevin M. Farrell
Attorney for Applicants
Registration No. 35,505
(603) 433-6300

Portsmouth, NH

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